

#### § 584.4

(iv) Administrative or punitive action for violating this regulation.

(3) Refer the soldier to a legal assistance attorney for advice on his legal rights and obligations.

(4) Help the soldier file an attotment or give other financial aid.

(5) Advise the claimant of the amount, effective date, and means of payment.

(6) Help the soldier apply for BAQ at the "with dependents" rate, if applicable.

(7) Ensure an ID card is issued for the child.

(8) Consider administrative or punitive action if the soldier fails to obey the court order. (See § 584.1(d)(5)(viii).)

(9) Inform the first level field grade commander of the soldier's repeated failure to meet the requirements of this regulation. Also, point out actions taken or contemplated to correct instances of nonsupport of family members.

#### § 584.4 Adoption proceedings.

(a) *General.* This chapter does not apply to those situations where a soldier is trying to adopt a child. It applies to those situations where another person is trying to adopt a legitimate or illegitimate child of a soldier. A child born in or out of wedlock normally may not be put up for adoption without the consent of the parents. Therefore, communications from a judge or court asking that a soldier appear at an adoption hearing must be answered.

(b) *Commander's actions.* The commander will—

(1) Inform the soldier or the inquiry.

(2) Urge the soldier to see a legal assistance attorney.

(3) Advise the court or judge, as appropriate, that—

(i) A request by the soldier for leave to attend an adoption hearing on (date) has been granted.

(ii) A request by the soldier for leave to attend an adoption hearing on (date), if made, would be approved.

(iii) Due to military requirements, the soldier cannot be granted leave to attend any court hearing until (date).

(iv) The soldier has stated that he or she is not the natural parent of the child.

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(v) Since the soldier is not present because (give specific reasons), (for example, temporary duty or leave), a complete response cannot be made until (date).

(vi) The soldier is no longer in this command. The commander will provide the soldier's new military address to the court or judge. The commander then will send a copy of the inquiry to the soldier's new commander and advise the court or judge of this action.

(4) Furnish the soldier with a copy of the communication and the reply.

#### § 584.5 U.S. citizenship determinations on children born out of wedlock in a foreign country.

(a) *General.* (1) A child born out of wedlock in a foreign country of an American citizen father and an alien mother does not automatically gain U.S. citizenship. The child must first be legally acknowledged by the father. Marriage to the mother may be required in order for the child to acquire U.S. citizenship. The father also must establish that he had at least 10 years of physical presence in the United States prior to the child's birth. Five of those years must have been spent in the United States after the father's 14th birthday. United States military service counts as physical presence in the United States. (See 8 U.S.C. 1101(c)(1), 1401(g), and 1409(c).) Whether the child gains the citizenship of its mother depends entirely upon the laws of the nation in which she is a citizen.

(2) A child born out of wedlock in a foreign country to an American citizen mother and an alien father or U.S. Citizen father gains U.S. citizenship at birth if the mother had been physically present in the United States for a continuous period of 1 year prior to the child's birth. (See 8 U.S.C. 1409(c).) The child will gain the citizenship of the father only if the laws of the nation of which the father is a citizen so provide.

(b) *Procedures for claiming U.S. citizenship rights.* (1) A father desiring rights of U.S. citizenship for a foreign-born child must legally acknowledge the child as his own and prepare a case file. Each case is decided on its own merits. The Department of State, if the child is in a foreign nation, or the Immigration and Naturalization Service (INS), if the

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child is in the United States, will make the decision. Documents that may be important in supporting a citizenship determination are listed below:

(i) Proof of father's citizenship. This may consist of any of the following:

(A) A certified copy of his birth certificate (with a raised seal of the registrar of births).

(B) A report of birth abroad (FS Form 240 (Report of Birth Abroad of a Citizen of the United States)).

(C) A certificate of citizenship.

(D) A certificate of naturalization.

(E) A valid U.S. Passport.

(F) A certified copy of an approved U.S. passport application.

(G) Any secondary evidence acceptable by the State Department or INS.

(ii) Affidavit of paternity.

(iii) Proof of presence in the foreign country at time of conception. (This information can be extracted from the passport, DA Form 2-1 (Personnel Qualification Record—Part II), etc.).

(iv) Child's birth certificate.

(v) Proof of the father's physical presence in the United States for 10 years (5 after age 14).

(vi) Blood type tests of the mother, the father, and the child. (At the request of the examining officer.)

(vii) Two sworn affidavits (at the request of the examining officer) from individuals who personally knew the mother, father, and child at the time of birth and can identify the child.

(viii) A copy of a certified English translation of all needed legal documents that are in a foreign language.

(ix) An executed passport application with three signed pictures of the child.

(2) The soldier may consult a legal assistance attorney for help in preparing the case file. The case file should be taken to the nearest American Embassy, Consulate General, or Consulate in the country where he and his child live. If the father is not present in the country where the child lives, he will do one of the following—

(i) Take the necessary documents to the nearest American Embassy, Consulate General, or Consulate.

(ii) Mail the documents to the Department of State, ATTN: Office of Citizens Consular Service, WASH DC 20520. That office, in conjunction with

the American Consul abroad, will decide if the child is a U.S. citizen.

(3) If both father and child are within the United States, a decision of citizenship status can be obtained from the INS. The soldier should file Form N-600 (Application for Certificate of Citizenship) at the nearest INS office. This form can be obtained from the INS. The appendix of AR 608-3 lists the location of INS offices.

(4) Any soldier who claims to be a U.S. citizen has the burden of proving that claim to the Department of State or INS, as applicable.

### **§ 584.6 Procedures governing non-active duty or discharged personnel.**

(a) *Procedures governing nonactive duty personnel.* (1) Nonsupport complaints and paternity claims against former soldiers or other not on active duty will be sent to the Commander, U.S. Army Reserve Components Personnel and Administration Center (RCPAC), ATTN: DARC-PSE-VS, 9700 Page Boulevard, St. Louis, MO 63132-5200.

(2) After RCPAC verifies the status, the following officials will act as prescribed below:

(i) Chief, National Guard Bureau, WASH DC 20310-2500, for members of the Army National Guard.

(ii) The area commander concerned for Ready Reservists assigned to troop program units under his or her control. (See AR 140-1, para 1-6.)

(iii) Commander, RCPAC for nonunit members assigned to Control Groups of the Ready Reserve, Standby Reserve, and Retired Reserve.

(3) The officials cited above will ensure that correspondence claiming nonsupport or paternity is delivered to the person concerned, using military channels. When the correspondence cannot be delivered through military channels, it will be sent to the last known mailing address of the person by certified mail (PS Form 3811 (Return Receipt, Registered, Insured and Certified Mail)). It should be marked "Return Receipt Requested—Deliver to Addressee Only." This form is available at U.S. post offices.